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10 Attorneys for Plaintiff
11 WEST SALEM MACHINERY CO., INC.

12 UNITED STATES DISTRICT COURT
13
14 FOR THE EASTERN DISTRICT OF CALIFORNIA

15 Nevada Railroad Materials, LLC, a
16 California limited liability company;
17 Nevada Railroad Materials, Inc., a Nevada
18 corporation (herein jointly known as
19 "NRM"),

20 Plaintiffs,

21 vs.

22 West Salem Machinery Co., Inc. (herein
23 known as "WSM"),

24 Defendant.

No. CIV. S-04-1930 FCD DAD

**STIPULATION FOR ISSUANCE OF
SECOND AMENDED STATUS
(PRETRIAL SCHEDULING) ORDER**

Complaint Filed: September 16, 2004
Trial Date: Not Yet Set

25 **STIPULATION**
26 **FOR ISSUANCE OF SECOND AMENDED STATUS (PRETRIAL SCHEDULING)**
27 **ORDER**

28 Plaintiffs Nevada Railroad Materials, LLC, a California limited liability company; Nevada
Railroad Materials, Inc, a Nevada corporation, (herein "NRM") and Defendant West Salem
Machinery, Inc. (herein "WSM") stipulate to the issuance of a Second Amended Status (Pretrial
Scheduling) Order, a copy of which is attached hereto as Exhibit "A".

Good cause exists for a Second Amended Status (Pretrial Scheduling) Order in that:

(1) NRM and WSM requested an Amended Status (Pretrial Scheduling) Order to
permit the parties, either jointly or individually to arrange for and perform an extended trial run of

1 the hogger and industrial wood chipping system, which is the subject of this action between mid-
2 November through early December of this year;;

3 (2) Because the hogger and wood chipping system are located outdoors as part of a
4 railroad tie recycling plant most of which is unpaved dirt, the parties were unable to perform the
5 trial run due to early rains and inability to perform the preparation work for the test run;

6 (3) The inspection and trial-run referenced above may result in the collection of
7 information and data significant to both the settlement efforts of the parties and the opinions and
8 reports of witnesses and experts;

9 (4) Deferral of the dates for disclosure of experts, service of expert reports and closure
10 of discovery may result in substantial savings to the parties and result in either settlement or a
11 narrowing of the scope of the issues in this case;

12 (5) Neither party expects to file dispositive motions which could be delayed by the
13 extensions sought by the parties; and

14 (5) Except as amended herein, the Status (Pretrial Scheduling) Order issued in this
15 matter on March 30, 2005, will remain in full force and effect.

16 DATED: December 14, 2005

WILKE, FLEURY, HOFFELT,
GOULD & BIRNEY, LLP

17
18
19 By: /s/

THOMAS G. REDMON
Attorneys for Defendant
WEST SALEM MACHINERY CO., INC.

20
21 DATED: December 14, 2005

LAW OFFICES OF DALE W. MAHON

22
23 By: /s/

DALE W. MAHON
Attorney for Plaintiffs
NEVADA RAILROAD MATERIALS, LLC
and
NEVADA RAILROAD MATERIALS, INC.

EXHIBIT "A"

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WEST SALEM MACHINERY CO., INC.

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

Nevada Railroad Materials, LLC, a
California limited liability company;
Nevada Railroad Materials, Inc., a Nevada
corporation (herein jointly known as
"NRM"),

Plaintiffs,

vs.

West Salem Machinery Co., Inc. (herein
known as "WSM"),

Defendant.

No. CIV. S-04-1930 FCD DAD

**SECOND AMENDED STATUS
(PRETRIAL SCHEDULING) ORDER**

Complaint Filed: September 16, 2004
Trial Date: Not Yet Set

SECOND AMENDED STATUS (PRETRIAL SCHEDULING) ORDER

This matter having come before the Court by Joint Status Report filed March 21, 2005;
the Court having issued a Status (Pretrial Scheduling) Order on March 30, 2005; good cause
appearing therefor and pursuant to stipulation of all parties, the Status (Pretrial Scheduling) Order
previously issued is amended as follows:

1. PARAGRAPH IV. DISCOVERY is hereby amended to provide:

All discovery shall be completed by February 24, 2006. In this context, "completed"

1 means that all discovery shall have been conducted so that all depositions have been taken and
2 any disputes relative to discovery shall have been resolved by appropriate order if necessary and,
3 where discovery has been ordered, the order has been obeyed. All motions to complete
4 discovery must be noticed on the magistrate judge's calendar in accordance with the local rules of
5 this court.

6 2. PARAGRAPH V. DISCLOSURE OF EXPERT WITNESSES is hereby amended
7 to provide:

8 All counsel are to designate in writing, file with the court, and serve upon all other parties
9 the name, address, and area of expertise of each expert that they propose to tender at trial not
10 later than March 17, 2006. The designation shall be accompanied by a written report prepared
11 and signed by the witness. The report shall comply with Fed. R. Civ. P. 26(a)(2)(B). By March
12 31, 2006, any party who previously disclosed expert witnesses may submit a supplemental list of
13 expert witnesses who will express an opinion on a subject covered by an expert designated by an
14 adverse party, if the party supplementing an expert witness designation has not previously
15 retained an expert to testify on that subject. The supplemental designation shall be accompanied
16 by a written report which shall also comply with the conditions as stated above.

17 2. Except as amended herein, the Status (Pretrial Scheduling) Order issued in this
18 matter on March 30, 2005, shall remain in full force and effect.

19 DATED: December 15, 2005

20
21 /s/ Frank C. Damrell Jr.
22 FRANK C. DAMRELL, JR.
23 UNITED STATES DISTRICT JUDGE

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